



***Board of Zoning Appeals Public Hearing
December 14, 2010 —7:00 P.M***

CASE NUMBER:	V-10-021
PROPERTY LOCATION:	3100 Haynesbrooke Lane, Johns Creek, GA 30022 1st District, 2nd Section Land Lot 867
CURRENT ZONING:	TR Conditional (Townhouse Residential District)
PARCEL SIZE:	0.22 Acres
PROPERTY OWNER:	Branch Banking & Trust

REQUEST

The applicant has requested a variance to encroach approximately 6 feet into the 100-foot undisturbed buffer and additional 50-foot impervious surface setback to allow for a future residential structure to be built on the subject property. The subject property is Lot 1 of the Haynesbrooke subdivision. Lot 1 is subject to the larger stream buffer requirement due to the property's location within an area seven miles upstream of the Big Creek water supply intake /reservoir, thus requiring the subject property to be originally platted with the 100-foot undisturbed buffer and an additional 50-foot impervious surface setback. The intent of the applicant's variance request is to create a marketable and buildable lot that would be consistent with existing residential dwellings in the Haynesbrooke subdivision.

ADJACENT ZONING AND LAND USES

The subject property is located in the Haynesbrooke subdivision and is zoned TR Conditional (Townhouse Residential District). The property is adjacent to Woodland Hills subdivision zoned R-4 Conditional (Single Family Dwelling District) to the east. To the west across Haynes Bridge Road is the Woodvale subdivision, zoned NUP Conditional (Neighborhood Unit Plan District). To the north, adjacent to Alvin Road, are large AG-1 (Agricultural District) zoned tracts with a single family residential dwelling unit. South of the subject property is the Bellingrath Commons subdivision, zoned TR Conditional.

APPLICABLE CODE REQUIREMENTS

City Code; Chapter 109: Natural Resources & Environmental Protection; Article V: Stream Buffer Protection: Section 109-119: Compatibility with other buffer regulations and requirements.

- (a)(2) DNR Part 5 Criteria for Small (under 100 square miles) Water Supply Watersheds Authorized under Part V of the Georgia Planning Act of 1989, these criteria require 100-foot undisturbed buffers and 150-foot setbacks on all perennial streams within seven miles upstream of a public water supply reservoir or public water supply intake. Beyond seven miles, the required buffer is 50 feet and the required setback is 75 feet. Equivalent protection measures can be adopted with approval from Georgia DCA and DNR.

VARIANCE REQUIREMENTS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations include:

- (i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
- (ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

ADDITIONAL STREAM BUFFER CONSIDERATIONS

Stream buffers are the areas of land immediately adjacent to the banks of state waters which facilitate the protection of water quality and aquatic habitat. Buffers also preserve green space, improve aesthetics, reduce stormwater runoff velocities, help control flooding, and keep stream water cool by providing shade. These buffers must remain undisturbed in their natural state during and after construction, however variances can be obtained that allow for encroachment under certain conditions. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25 foot buffers on both sides of a stream, measured from the point of wrested vegetation which is usually located at the tops of the banks. The City of Johns Creek requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited. Variance applications may be granted on a case by case basis provided the applicant submit information showing the location of the stream, the extent of encroachment, and documentation of the unusual hardship should the buffer be maintained. These variance applications must also provide mitigation measures to offset the impacts of land development or disturbance on the proposed property. Although allowed by ordinance, granting of stream buffer variances should be kept to a practicable minimum in order to preserve water quality and minimize flood risks from future, upstream development. The location and extent of buffer encroachment, long term water quality impacts, and potential, less intrusive alternate designs are all factors to be considered in determining whether to issue a variance. Stream Buffer Variances granted by the City of Johns Creek are subject to annual audits by the Metropolitan North Georgia Water Planning District and the EPD. The City must ensure that consistency and thorough examination to long term impacts are considered in order to justify granting variances.

RECOMMENDATION

The subject property was originally platted with 100-foot undisturbed buffer and additional 50-foot impervious surface setback from the point of wrested vegetation of the stream that traverses within the common area. The applicant would like to accommodate a future residential structure on the existing lot, and has proposed a building footprint requiring a minimal encroachment of 6 feet and 213 square feet of impervious surface, solely within the 50-foot impervious surface setback portion of the stream buffer.

The intent of the requested variance is to provide a buildable lot for a single-family residence that will be in keeping with the form, appearance, and building size of existing homes located in the Haynesbrooke subdivision. The requested encroachment of 6 feet would be a minimal intrusion into the stream buffer and would not require the removal of mature vegetation, considering that the entire lot has been graded and sodded in anticipation for development of a residential structure, and existing trees and vegetation are located along the periphery of the subdivision. Also, the applicant would provide for a replanting/mitigation plan that exceeds the revegetation standards of the city, resulting in a density increase of plant material within the undisturbed portion

of the stream buffer of the common area. In addition to the replanting plan, the applicant proposes as part of mitigation to increase the distance of the undisturbed buffer in the common area and subject property to 130 feet at maximum measured from the banks of the stream.

In light of the proposed building footprint not having an adverse effect on existing vegetation, applicant's replanting/mitigation plan, and the additional mitigation proposal to expand the undisturbed portion of the stream buffer from 100 feet to 130 feet at maximum; the Department of Community and Development recommends **APPROVAL with conditions** of this request.

The Department would note that, should the variance be granted by the Board of Zoning Appeals on the merits of this request, the prospective residential structure would be limited to the building footprint as shown on the applicant's submitted site plan.

Based upon the findings and conclusions herein, Staff recommends **APPROVAL with conditions** of this request, subject to the following conditions of approval or as may be amended by the Board of Zoning Appeals:

- 1) The encroachment of the proposed building footprint shall not exceed 6 feet in depth and 213 square feet of additional impervious surface into the 100-foot undisturbed buffer and additional 50-foot impervious surface setback, as shown on the site plan dated November 2, 2010. An encroachment greater than 6 feet and/or 213 square feet for the purpose of constructing a residential structure on Lot 1 of the Haynesbrooke subdivision would require the property owner to submit for a separate variance with the City of Johns Creek.
- 2) Obtain required building permits from the City of Johns Creek Community Development Department prior to commencement of constructing a residential dwelling unit on the subject property.
- 3) As part of the building permit, the applicant is to submit a copy of the mitigation plan that was provided with the variance application dated November 2, 2010. The mitigation plan must clearly depict the location, number, and plant material to be installed on the property.
- 4) The applicant is required, prior to issuance of a certificate of occupancy, to replant vegetation on the subject property and in the identified location within the subdivision common area, in order to offset any adverse impact associated with the proposed intrusion of additional impervious surface closer to the stream. Revegetation of the property shall be consistent with the mitigation plan submitted by the applicant to the Department of Community and Development on November 2, 2010.
- 5) The exterior elevation of the residential dwelling unit must be consistent with the architectural and building materials of existing residential structures in the Haynesbrooke subdivision.

Aerial and Vicinity Map

